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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,497	12/19/2005	Robert J. Schuller	006593-02015-C1	6434
27805	7590	08/07/2008		
THOMPSON HINE L.L.P. Intellectual Property Group P.O. BOX 8801 DAYTON, OH 45401-8801			EXAMINER MALONE, STEVEN J	
			ART UNIT 3687	PAPER NUMBER
			MAIL DATE 08/07/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/561,497

Applicant(s)

SCHULLER ET AL.

Examiner

STEVEN J. MALONE

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3687

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date 12/19/2005
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This communication is a first Office Action Non-Final rejection on the merits.

Claims 1-32, as originally filed, are currently pending and have been considered below.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goodwin (6,547,040) in view of Kasinoff (7,041,915).**

As per claims 1, 14, 20, 26, and 30, Goodwin discloses a scale configured for communication with a computerized checkout system (See Figure 2, via scale 58), the scale including a weighing station for receiving items to be weighed and having an associated mechanism for producing weight indicative signals when items are placed on the weighing station (See Figure 2, via display 22), a pricing control operable to establish a price for a weighed item based in part upon a weight indicative signal

produced for the weighed item (See the Abstract, via a scale with RFID capabilities), a supply of labels and a supply of label RFID tags, a label RF unit positioned for reading label RFID tags (See Figure 3, via interrogator 32), the identification number is linked to transaction data including at least total price and weighed item identity (See Figure 3, via process step 90), and the linked identification number and transaction data is made available to the computerized checkout system (See Figure 3, via process step 92), the computerized checkout system includes at least one RF unit for detecting the identification number of the label RFID tag when the weighed item is presented at checkout (See Figure 3, via process step 92), and the computerized checkout system accesses the transaction data linked to the identification number for adding the total price to a checkout transaction total (See Figure 3, via process step 78).

However, Goodwin fails to explicitly disclose:

wherein the scale is adapted to output a label so as to enable application of an associated label RFID tag to the weighed item, in connection with the label that is output the label RF unit detects an identification number stored in the associated label RFID tag.

Kasinoff discloses a random weight food product pricing scale with automated login capability including wherein the scale is adapted to output a label so as to enable application of an associated label RFID tag to the weighed item, in connection with the label that is output the label RF unit detects an identification number stored in the associated label RFID tag (See the Abstract, via RFID login of service personnel).

From the disclosure of Kasinoff it would have been obvious to one having skill in the art at the time that the invention was made to modify the RFID checkout system of Goodwin to include associating an RFID device with the product database registration as taught by Kasinoff in order to automatically login service personnel (See col. 1 at lines 25-30 of Kasinoff).

As per claims 2, 28 and 29, Kasinoff discloses a service person RF detection unit for detecting a service person RFID tag (See the Abstract, via RFID login of service personnel).

As per claims 3 and 12, Kasinoff discloses at least one food product slicer located in a vicinity of the scale, the slicer configured for communicating information to the scale, the slicer including at least one RF unit for detecting service person RFID tags and for detecting bulk food product RFID tags associated with products being sliced by the slicer, upon detection of a service person RFID tag and a bulk food product RFID tag, service person identity is linked to a bulk food product identifier and the linked service person identity and bulk food product identifier are made available to the scale, when the scale detects a service person RFID tag the scale accesses bulk food product identifier information linked to the service person and displays the information on a display of the scale (See col. 3 at lines 35-40, via a slicer).

As per claim 4, Kasinoff discloses wherein the scale is configured with a user input device enabling the service person to select from among bulk food product identifier information displayed for the service person, for identifying to the scale the food product to be weighed (See Figure 1, via keypad 26 and display 29).

As per claims 5, 18 and 24, Kasinoff discloses the slicer is connected to the scale through a store computer, the store computer maintains an open slice/weigh transactions database including the linked service person identity and bulk food product identifier, the scale requests information from the database via communication with the store computer (See Figure 2, via communications link 44).

As per claims 6 and 15, Kasinoff discloses wherein upon output of the label from the scale, the linked service person identify and bulk food product identifier is either removed from the open slice/weigh transactions database or marked as closed in the open slice/weigh transactions database (See Figure 2, via reusable RFID label 20).

As per claim 7, Goodwin discloses wherein the scale includes a customer RF detection unit for detecting customer RFID tags. (See claim 3, via a customer indicating that his unit for purchase is on the scale).

As per claim 8, Goodwin discloses wherein pricing information for the weighed item is set in part based upon identity of the customer as detected via the customer RFID tag (See col. 3 at lines 20-25, via a customer entering a response).

As per claims 9 and 21, Goodwin discloses wherein the supply of labels and the supply of label RFID tags are integrated, the label RFID tags being preattached to the labels (See col. 1 at lines 25-35, via an RFID label attached to a product).

As per claims 10 and 22, Goodwin discloses wherein the supply of labels and the supply of RFID tags are separate, the scale includes a print mechanism for printing on labels, and the associated label RFID tag is attached to the label by the scale after printing of the label (See col. 2 at lines 37-42, via barcode labels or RFID labels).

As per claims 11 and 23, Goodwin discloses wherein the label that is output includes pricing information printed thereon by a printer mechanism within the scale (See col. 2 at lines 37-42, via barcode labels or RFID labels).

As per claims 13 and 19 and 25, Kasinoff discloses wherein the scale forms part of a package wrapping machine located in a back room of the store (See col. 3 at lines 19-20, via a service person).

As per claim 16, Goodwin discloses wherein the supply of labels and the supply of RFID tags are separate, the scale includes a print mechanism for printing on labels, and the associated label RFID tag is attached to the label by the scale after printing of the label (See col. 2 at lines 20-25, via printer 24).

As per claim 17, Goodwin discloses wherein the label that is output includes pricing information printed thereon by a printer mechanism within the scale (See col. 2 at lines 20-25, via printer 24 printing transaction information on receipt paper).

As per claim 27, Goodwin discloses wherein the controller operates to output a transaction message, including the linked identification number and transaction data, on a communications link (See col. 2 at lines 5-10, via transaction server 16).

As per claim 31, Goodwin discloses wherein the weighing station and the supply of labels, supply of label RFID tags and the label RF unit are integrated in a common scale mechanism (See Figure 2, via an integrated weighing station).

As per claim 32, Goodwin discloses wherein the weighing station is part of a food product slicer, and the supply of labels, supply of label RFID tags and the label RF

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unit are part of a separate device (See Figure 2, via label printer and weighing station are part of separate devices).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

White (7,311,251) teaches a system and method of completing a transaction involving goods tagged with RFID labels.

Holzman (7,156,303) teaches a shopping system and method.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEVEN J. MALONE whose telephone number is (571)270-5107. The examiner can normally be reached on Monday-Thursday 7:30 am - 5:00 pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Gart can be reached on 571-272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Matthew S Gart/
Supervisory Patent Examiner, Art
Unit 3687

SM